IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2675 OF 2006

Bibhishan Pandurang Chandankar
and Ors. .. Applicants

Versus

The State of Maharashtra .. Respondent

Mrs.Anita Agarwal for applicants
Mr.P.H.Hingorani, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 23rd August 2006

P.C.

. The applicants in this application are arrayed as accused in C.R.No.7 of 2006.

2. Criminal Application No.2974 of 2006 filed by two of the accused in the above C.R. was placed before me on 21st August 2006 and I had granted bail to applicant No.1 therein. Application for applicant No.2 therein was rejected for the reasons assigned in my order dated 21st August 2006.

3. Criminal Application No.2674 of 2006, according to learned A.P.P. is at the instance of the applicants who are identically placed as that of applicant No.2 in Criminal Application No.2974 of 2006. In his submission, therefore, the application No.2674 of 2006 be rejected.

4. Learned Advocate for applicants submits that when the order was passed in Criminal Application No.2974 of 2006, my attention was not invited to the complaint filed by the applicants accused against original complainant, which is

registered as C.R.No.8 of 2006. She submits that the complainants in that complaint viz., accused before this Court in the present application have also sustained injuries in the free-fight which took place on account of dispute over electricity supply to the field. There are injuries sustained by the applicants/ complainants in C.R.No.8/2006 which are serious in nature and case under section 302 of I.P.C., therefore, is not made out. It is her case that, prima facie, when family members of both families who had adjoining fields are engaged in a fight, it cannot be said that there was any motive to assault and kill but these are acts essentially in self-defence. She, therefore, submits that each one of these applicants deserve to be enlarged on bail.

5. For the reasons that I have assigned while deciding the other application, I am not in agreement with Mrs.Agarwal.

6. The above aspect can be gone into and decided at the stage of trial after evidence is led. This is not a stage when these matters can be gone into. More so, when the learned A.P.P. submits that complainants are accusing the applicants of commission of an offence which is a more serious one i.e. under section 302 of I.P.C.

7. Learned Advocate for applicants in Criminal Application No.2674 of 2006, therefore, does not press that application and she is granted leave to withdraw the same.

8. In Criminal Application No.2675 of 2006, there are five applicants. Applicant Nos. 1, 4 and 5 are similarly situate to applicants in Criminal Application No.2974 of 2006, where I have enlarged applicant No.1 therein on bail. This fact is not disputed and hence, criminal

application No.2675 is allowed in part. Applicant Nos. 1, 4 and 5 i.e. Bhibhishan Pandurang Chandankar, Pratap Bhibhishan Chandankar and Navnath Pandurang Chandankar are released on bail in the same sum as in Application No.2974 of 2006 and on the same conditions mentioned therein.

9. As far as applicant Nos. 2 and 3 in Criminal Application No.2675 of 2006, it is brought on record that they were carrying weapons and had assaulted the deceased. In such circumstances, their application also stands rejected.

(S.C.DHARMADHIKARI, J)